

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



November 23, 1988

ALL COUNTY LETTER NO. 88-146

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: AID TO FAMILIES WITH DEPENDENT CHILDREN-FOSTER CARE
(AFDC-FC) PROGRAM AND THE IMMIGRATION REFORM AND
CONTROL ACT (IRCA) OF 1986

REFERENCE: ACL 87-77; ACIN 88-87; ACL 88-39

The purpose of this letter is to provide Counties with information on how the Immigration Reform Control Act (IRCA) affects eligibility for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) Program.

The IRCA of 1986 (Public Law 99-603) was enacted November 6, 1986 and provides that certain aliens may apply for legal resident status in the United States beginning May 5, 1987. It also provides that Federally financed public assistance is unavailable for five years to newly legalized aliens from the date the alien was granted lawful temporary resident status with only a few exceptions. One of the exceptions is the Federal foster care program.

This letter describes under what circumstances children legalized under IRCA may qualify for Federal or State AFDC-FC.

Eligibility for Federal AFDC-FC

Otherwise eligible children who have been granted either temporary or permanent lawful resident status under Section 245A of IRCA may be eligible for Federal AFDC-FC. These children must be otherwise eligible for Federal AFDC-FC, including the Aid to Families with Dependent Children-Family Group/Unemployed Parent (AFDC-FG/U) linkage determination requirement in Eligibility and Standards (EAS) Section 45-202.3. In order to meet the linkage requirement in Section 45-202.312 or .313, the child must have been eligible to receive Federal AFDC-FG/U in the home of the parent or relative from whom removed except for the child's/parent's ineligibility status because of their legalized status under IRCA. (Aliens legalized under the provisions of IRCA are not eligible for Federally financed AFDC-FG/U for five years from the date lawful temporary status is granted.)

Aliens who are granted lawful temporary resident status under the IRCA Section 210, Special Agricultural Workers (SAWS), and Section 210A, Replenishment Agricultural Workers (RAWS), are considered to be permanently residing in the United States under color of law.

Otherwise eligible children who are considered to have lawful permanent resident status IRCA Sections 210 and 210A are also eligible for Federal AFDC-FC.

Eligibility for State AFDC-FC

State law (Welfare and Institutions Code Section 11104) and regulation (EAS Section 42-431) require that a child be lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law to be eligible for aid. The IRCA did not supersede this requirement for State foster care programs. Therefore, children with lawful temporary resident status under IRCA Section 245A are NOT eligible for State AFDC-FC.

Otherwise eligible children with lawful permanent resident status under IRCA are eligible for State AFDC-FC. November 7, 1988 is the first date a legalized alien can be adjusted to permanent resident status under IRCA.

Certain categories of aliens granted temporary resident status under Section 210, Special Agricultural Workers (SAWS), and Section 210A, Replenishment Agricultural Workers (RAWS), are considered to be permanently residing in the United States under color of law. Based on IRCA, children with this status are considered to have lawful permanent resident status and are, therefore, also eligible for State AFDC-FC (if otherwise eligible).

Documentation Requirements

In order to be eligible for AFDC-FC children who are not U.S. citizens are required to present documentation which clearly identifies that they have been granted legal status in one of the eligible categories. EAS Section 42-433.3 contains general alien documentation requirements.

In addition to 42-433.3, aliens with the following documentation have been granted temporary or permanent status under IRCA:

- o An Immigration Naturalization Service (INS) form I-151 or I-551, "Alien Registration Receipt Card"
- o A "Re-entry Permit" or passport booklet with the stamped annotation, "processed for I-551, Temporary Evidence of Lawful Admission for Permanent Admission".

- o An INS form I-688, "Temporary Resident Card".
The I-688 will indicate under which IRCA Section the alien has been admitted to the U.S., i.e., Section 245A or 210A.

Please note, an I-688A, Employment Authorization Card is issued to applicant aliens while their application for legalized status is being processed. The I-688A is not, in itself, satisfactory evidence of eligible alien status since the applicant alien's final status has not yet been determined.

Implementation Instructions

Counties are instructed to pay otherwise eligible children who are legalized aliens as described above either Federal or State AFDC-FC. Specific claiming instructions are being prepared by the Financial Management Services Branch and will be issued in a separate all county letter. If you have any questions regarding the instructions in this letter or regarding a specific AFDC-FC case, please call the Foster Care Program Bureau at (916) 445-0813 or ATSS 485-0813.



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cc: CWDA